

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Criminal No.**07cr2973-H**
11 Plaintiff,) **FINDINGS AND RECOMMENDATION**
12 v.) **OF THE MAGISTRATE JUDGE UPON**
13 **JUAN CARLOS FAJARDO-**) **A PLEA OF GUILTY WITH WAIVER**
14 **HERNANDEZ(1),**) **OF OBJECTIONS AND THE**
15 Defendant.) **PREPARATION OF THE**
16 **PRESENTENCE REPORT**

17 Upon Defendant's request to enter a plea of Guilty pursuant to Rule 11 of the Federal
18 Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District
19 Judge, with the written consents of the Defendant, counsel for the Defendant, and counsel for the
20 United States.

21 Thereafter, the matter came on for a hearing on Defendant's plea of guilty, in full
22 compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge, in
23 open court and on the record.

24 In consideration of that hearing and the allocution made by the Defendant under oath on
25 the record and in the presence of counsel, and the remarks of the Assistant United States
26 Attorney,

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1 **I make the following FINDINGS - that the Defendant understands:**

- 2 1. the right to persist in a plea of "not guilty";
3 2. the right to a speedy and public trial;
4 3. the right to be tried by a jury, or the ability to waive that right and have a judge
5 try the case without a jury;
6 4. the right to the assistance of counsel at trial;
7 5. that, at trial, there would be the right to confront and cross-examine the witnesses
8 against the Defendant;
9 6. that, at trial, there is the right to present a defense, and the right to have witnesses
10 subpoenaed to testify on the Defendant's behalf;
11 7. that, at trial, the Defendant would have the right against compelled self-
12 incrimination;
13 8. the nature of the charge filed in this case;
14 9. the maximum possible sentence that could be imposed (including imprisonment,
15 fine, term of supervised release, and mandatory special assessment), the effect of
16 a supervised release term, and that the sentencing guidelines are only advisory so
17 that the Court may sentence Defendant up to the statutory maximum;
18 10. the terms of the plea agreement;

19 **I further find that:**

- 20 11. that Defendant's plea of guilty is made knowingly and voluntarily;
21 12. the Defendant is competent to enter a plea; and
22 13. there is a factual basis for Defendant's plea.

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1 **I therefore RECOMMEND that the District Judge accept the Defendant's plea of**
2 **guilty.**

3 The sentencing hearing will be before United States District **Judge MARILYN L.**
4 **HUFF, on 9/29/08, at 9:00AM.**

5 Objections to these Findings and Recommendation were waived by the parties at the
6 hearing. The parties have also waived the preparation of the Presentence report in this case.

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9 Dated: 08/26/08



10 BARBARA L. MAJOR
11 United States Magistrate Judge

12 Copies to:

13 Hon. MARILYN L. HUFF
14 U.S. District Judge

15 PAUL STARITA
16 United States Attorney

17 JOHN FIELDING
18 Counsel for Defendant

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